

MONTANA LEGISLATIVE HISTORY

Chapter 465 19 2003

Bill H 199 S _____

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) _____ c

1/16 ✓ c

_____ c

_____ c

Date Out 1/23 ✓ c

S. Committee on Judiciary

Hearing Date(s) _____ c

3/11 ✓ c

_____ c

3/18 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

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Detailed Bill Information



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Bill Draft Number: LC0164 [Current Bill Text](#)

Bill Type - Number: HB 199

Short Title: Allow posting driver's license as bond

Primary Sponsor: Christopher Harris

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 50

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Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/23/2003			
(H) Signed by Governor	04/23/2003			
(H) Transmitted to Governor	04/16/2003			
(S) Signed by President	04/15/2003			
(H) Signed by Speaker	04/15/2003			
(H) Returned from Enrolling	04/14/2003			
(C) Sent to Printing	04/14/2003			
(H) Sent to Enrolling	04/12/2003			
(H) 3rd Reading Passed as Amended by Senate	04/11/2003	95	2	
(H) Scheduled for 3rd Reading	04/11/2003			
(H) 2nd Reading Senate Amendments Concurred	04/10/2003	99	1	
(H) Scheduled for 2nd Reading	04/10/2003			
(S) Returned to House with Amendments	03/24/2003			
(S) 3rd Reading Concurred	03/24/2003	48	0	
(S) Scheduled for 3rd Reading	03/24/2003			
(S) 2nd Reading Concurred on Voice Vote	03/22/2003	46	0	
(S) Scheduled for 2nd Reading	03/22/2003			
(S) Scheduled for 2nd Reading	03/21/2003			
(C) Sent to Printing	03/19/2003			

(S) Committee Report--Bill Concurred as Amended	03/19/2003			(S) Judiciary
(S) Committee Executive Action--Bill Concurred as Amended	03/19/2003	8	0	(S) Judiciary
(S) Hearing	03/11/2003			(S) Judiciary
(S) Hearing Canceled	02/25/2003			(S) Judiciary
(S) Referred to Committee	02/03/2003			(S) Judiciary
(S) First Reading	02/03/2003			
(H) Transmitted to Senate	01/31/2003			
(H) 3rd Reading Passed	01/31/2003	97	2	
(H) Scheduled for 3rd Reading	01/31/2003			
(H) 2nd Reading Passed	01/30/2003	97	2	
(H) Scheduled for 2nd Reading	01/30/2003			
(H) Scheduled for 2nd Reading	01/29/2003			
(C) Sent to Printing	01/24/2003			
(H) Committee Report--Bill Passed as Amended	01/24/2003			(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	01/23/2003	18	0	(H) Judiciary
(H) Hearing	01/16/2003			(H) Judiciary
(H) First Reading	01/06/2003			
(H) Referred to Committee	01/03/2003			(H) Judiciary
(C) Introduced Bill Text Available Electronically	12/26/2002			
(H) Introduced	12/26/2002			
(C) Pre-Introduction Letter Sent	12/16/2002			
(C) Draft in Assembly/Executive Director Review	12/16/2002			
(C) Draft in Final Drafter Review	12/16/2002			
(C) Bill Draft Text Available Electronically	12/13/2002			
(C) Draft in Input/Proofing	12/13/2002			
(C) Draft to Drafter - Edit Review [CMD]	12/13/2002			
(C) Draft in Edit	12/13/2002			
(C) Draft in Legal Review	12/12/2002			
(C) Draft Back for Requester Changes	12/12/2002			
(C) Draft to Requester for Review	12/09/2002			
(C) Draft Request Received	06/03/2002			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Law and Justice Interim Committee		
Drafter	Lane	Valencia	
By Request Of	Department of Justice		
Primary Sponsor	Harris	Christopher	

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Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Criminal Procedure (see also: Law Enforcement)		Simple	CRP
Motor Vehicles (see also: Taxation--Trans; Traffic Regulations; Transportation)		Simple	MTRV
Law Enforcement (see also: Criminal Procedure)		Simple	LEN

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Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: Y

Session Law Ch. Number: 465

DEADLINE

Category: General Bills

Transmittal Date: 02/28/2003

Return (with 2nd house amendments) Date: 04/05/2003

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Section Effective Dates

Section(s)	Effective Date	Date Qualified

All Sections	01-OCT-03	
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HOUSE BILL NO. 199
INTRODUCED BY HARRIS
BY REQUEST OF THE DEPARTMENT OF JUSTICE

AN ACT AUTHORIZING A DRIVER TO POST A DRIVER'S LICENSE IN LIEU OF BAIL FOR TRAFFIC OFFENSES; REVISING LAW ENFORCEMENT AND DRIVER'S LICENSE LAWS TO COORDINATE WITH THE PRIVILEGE OF POSTING A LICENSE IN LIEU OF BAIL; REPLACING THE DRIVER'S LICENSE REINSTATEMENT FEE WITH AN ADMINISTRATIVE FEE; AND AMENDING SECTIONS 44-1-1101, 44-1-1102, 46-9-302, 46-9-401, 61-5-214, 61-5-215, AND 61-5-216, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-1-1101, MCA, is amended to read:

"44-1-1101. Duty of patrol officer upon making an arrest. Upon making an arrest, a patrol officer shall:

- (1) deliver the offender to the nearest justice of the peace during office hours or to the county jail;
- (2) give the offender a summons describing the nature of the offense with instructions ~~thereon~~ for the offender to report to the nearest justice of the peace; or
- (3) (a) accept bail determined pursuant to Title 46, chapter 9, part 3; or
(b) with the offender's permission, accept the offender's driver's license in lieu of bail if the summons describes a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, and if the offender is the holder of an unexpired driver's license."

Section 2. Section 44-1-1102, MCA, is amended to read:

"44-1-1102. Procedure when patrol officer accepts bail or driver's license in lieu of bail. (1) If the patrol officer accepts bail, ~~he~~ the patrol officer shall give a signed receipt to the offender, setting forth the

amount received. The patrol officer shall then deliver the bail money to the justice of the peace before whom the offender is to appear, and the justice of the peace shall give a receipt to the patrol officer for the amount of bail money delivered. After the filing of the complaint and the appearance of the defendant, the justice of the peace shall assume jurisdiction and may set and accept further bail bond.

(2) If the patrol officer accepts an unexpired driver's license in lieu of bail, the patrol officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The patrol officer shall deliver the driver's license to the justice of the peace before whom the offender is to appear, and the justice of the peace shall give a receipt to the patrol officer acknowledging delivery of the offender's driver's license to the court. After the filing of the complaint and the appearance of the defendant, the justice of the peace shall assume jurisdiction and may extend the date of the driving permit for a period up to 6 months from the defendant's initial appearance date.

(3) The judge shall return a driver's license that has been accepted in lieu of bail to a defendant after:

(a) the required bail has been posted or there has been a final determination of the charge; and

(b) if the defendant pleaded guilty or was convicted, a \$25 administrative fee has been paid to the court."

Section 3. Section 46-9-302, MCA, is amended to read:

"46-9-302. Bail schedule -- acceptance by peace officer. (1) A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:

(a) any assault on a partner or family member, as partner or family member is defined in 45-5-206;

(b) stalking, as defined in 45-5-220; or

(c) violation of an order of protection, as defined in 45-5-626.

(2) A peace officer may:

(a) accept bail on behalf of a judge:

~~(a)~~(i) in accordance with the bail schedule established under subsection (1); or

~~(b)~~(ii) whenever the warrant of arrest specifies the amount of bail; or

(b) with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4).

(3) Whenever a peace officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the judge before whom the offender is to

appear, and the judge shall give a receipt to the peace officer for the bail delivered.

(4) Whenever a peace officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The peace officer shall deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give the peace officer a receipt acknowledging delivery of the offender's driver's license to the court. After the filing of the complaint and the appearance of the defendant, the judge shall assume jurisdiction and may extend the date of the driving permit for a period of up to 6 months from the defendant's initial appearance date.

(5) The judge shall return a driver's license that has been accepted in lieu of bail to a defendant after:

- (a) the required bail has been posted or there has been a final determination of the charge; and
- (b) if the defendant pleaded guilty or was convicted, a \$25 administrative fee has been paid to the court."

Section 4. Section 46-9-401, MCA, is amended to read:

"46-9-401. Forms of bail. (1) Bail may be furnished in the following ways:

(a) by a deposit with the court of an amount equal to the required bail of cash, stocks, bonds, certificates of deposit, or other personal property approved by the court;

(b) by pledging real estate situated within the state with an unencumbered equity, not exempt, owned by the defendant or sureties at a value double the amount of the required bail;

(c) by posting a written undertaking executed by the defendant and by two sufficient sureties; ~~or~~

(d) by posting a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of the surety company; or

(e) by posting an offender's driver's license in lieu of bail if the summons describes a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, and if the offender is the holder of an unexpired driver's license.

(2) The amount of the bond must ensure the appearance of the defendant at all times required through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court.

(3) ~~Nothing in this~~ This chapter prohibits ~~does not prohibit~~ a surety from surrendering the defendant pursuant to 46-9-510 in a case in which the surety feels insecure in accepting liability for the defendant.

(4) Whenever a driver's license is accepted in lieu of bail, the judge shall return the driver's license to the defendant after:

(a) the required bail has been posted or there has been a final determination of the charge; and

(b) if the defendant pleaded guilty or was convicted, a \$25 administrative fee has been paid to the court."

Section 5. Section 61-5-214, MCA, is amended to read:

"61-5-214. Mandatory suspension for failure to appear or pay fine -- ~~administrative fee~~ -- notice. (1)

The department shall suspend the driver's license or driving privilege of a person ~~immediately~~ upon receipt of a ~~certified copy of a docket page or other sufficient evidence~~ report from the court, certified under penalty of law and in a form prescribed by the department, that the person:

(a) is charged with or convicted of a violation of chapters 3 through 10 of this title;

(b) (i) failed to post the set bond amount or appear upon an issued complaint, summons, or court order; ~~or~~

(ii) after posting a driver's license in lieu of bail, failed to appear upon an issued complaint, summons, or court order; or

~~(iii)~~(iii) when assessed a fine, costs, or restitution of \$100 or more, failed to pay the fine, costs, or restitution; and

(c) received prior written notice that the driver's license or driving privileges of the person ~~will~~ would be suspended upon:

(i) ~~a~~ failure to post bond or appear on an issued complaint, summons, or court order;

(ii) failure to appear after posting a driver's license in lieu of bond; or

(iii) ~~upon a~~ failure to pay assessed fines, costs, or restitution.

(2) The suspension continues in effect until the court notifies the department that:

(a) the person has ~~paid the reinstatement fee and~~ either appeared in court or paid the assessed fines, costs, or restitution; and

(b) the person has paid the court an administrative fee of \$25 if the court was holding the offender's driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401.

(3) The notice required under this section may be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or may be contained in a court order, either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most current address for that person received by or on record with the court. The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent and of the probable consequences of a suspension unless the person appears or pays within a specified number of days.

(4) The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate county or city general fund."

Section 6. Section 61-5-215, MCA, is amended to read:

"61-5-215. Provisional licenses prohibited ~~—reinstatement fee.~~ (1) No A provisional, restricted, or probationary license may not be issued upon a suspension under 61-5-214.

~~(2) A person whose license is suspended under 61-5-214 shall pay a reinstatement fee of \$25 to the court for deposit in the state general fund."~~

Section 7. Section 61-5-216, MCA, is amended to read:

"61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator has appeared, posted the bond, or paid the fine, costs, or restitution amounts and, if applicable, the reinstatement administrative fee, the department shall immediately reinstate the license, unless the operator otherwise is not entitled to reinstatement."

Section 8. Coordination instruction. If House Bill No. 215 and [this act] are both passed and approved, then [section 7 of this act], amending 61-5-216, is amended to read:

"Section 7. Section 61-5-216, MCA, is amended to read:

"61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator has appeared, posted the bond, or paid the fine, costs, or restitution amounts and has paid the administrative fee required under 61-5-214 and, if the reinstatement fee required under 61-2-107 or [section 1 of House Bill No. 215] has been paid, the department shall ~~immediately~~ reinstate the license, unless the operator otherwise is not entitled to reinstatement.""

- END -

Latest Version of HB 199 (HB0199.ENR)

Processed for the Web on April 14, 2003 (4:29pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2003 Legislature](#) | [Leg. Branch Home](#)

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Prepared by Montana Legislative Services

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on January 16, 2003 at 8 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Lisa Swanson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 195, 1/16/2003; HB 197,
1/16/2003; HB 199, 1/16/2003; HB
200, 1/16/2003
Executive Action: HB 200; HB 57; HB 141; HB 15; HB 77

Motion/Vote: REP. GALLUS moved that HB 200 BE TABLED. Motion carried 18-0 voice vote.

HEARING ON HB 199

Sponsor: REP. HARRIS, HD 30, Bozeman

Opening Statement by Sponsor:

REP. HARRIS opened on HB 199. He stated this bill would authorize a driver to post a driver's license instead of bail for traffic offenses. He stated this bill would mandate a \$25 fee for a motorist who used this method. He gave Highway 191 as an example of a speeder by Big Sky. The officer collects cash and if he did not, the officer would have to follow the driver to the Bozeman jail. This poses a danger to the officer as well as the public since the officer is not available for the time he is escorting the driver. He stressed officers need to patrol the highways and not be babysitting the motorist into town.

{Tape: 3; Side: A; Approx. Time Counter: 193 - 270}

Proponents' Testimony:

Brenda Nordlund, DOJ, supported HB 199. Ms. Nordlund stated she scribed the bill and proceeded to go over the bill's mechanics.

{Tape: 3; Side: A; Approx. Time Counter: 271 - 371}

{Tape: 3; Side: A; Approx. Time Counter: 284 - 371}

Shawn Driscoll, Chief Montana Highway Patrol, supported HB 199. He stated the highway patrol responds to over 70,000 calls a year; they investigate over 11,000 crashes a year; they arrest 3,500 a year which involves incarceration; and they stop 100,000 violators a year. He stated when they stop someone on a minor traffic violation, they have three options: issue a notice to appear and release, issue a notice requesting and collecting bond set by the court, or incarceration. He stated significant violations like a DUI would not be treated under this bill. He stated this bill would give law enforcement one more tool.

{Tape: 3; Side: A; Approx. Time Counter: 372 - 497}

Opponents' Testimony:

Scott Restvedt, Montana Bail Bonds Association, opposed HB 199. He stated this bill would add administrative costs and burden the

courts. He emphasized in a post 911 era, having a driver's license as a photo ID is paramount. He believed this bill would pose a hardship on all concerned parties.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 77}

Kelly Reisbeck, Montana Bail Agents Association, opposed HB 199. He stated this bill allows people stopped for DUI to just walk out.

Paul Jara, opposed HB 199. He stated he was in law enforcement and believes this bill is not good public policy. He emphasized he served warrants in Cascade County and this bill would not guarantee they would show up in court.

{Tape: 3; Side: B; Approx. Time Counter: 102 - 114}

Steve Crow, Valley Bail Bonds, opposed HB 199.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. NOENNIG asked REP. HARRIS about the bail bondsman's concern over the effectiveness. REP. HARRIS responded that a DUI would not be able to qualify under this bill and that the language could be amended to clarify that point.

{Tape: 3; Side: B; Approx. Time Counter: 129 - 158}

Officer Driscoll responded this bill would be used only on minor traffic violations. He believed it would be effective and it would guarantee their appearance in court as they would need their driver's license to get through life. REP. MALCOLM suggested using a credit card. REP. HARRIS stated that would be a possibility and is a good idea.

Closing by Sponsor:

REP. HARRIS closed on HB 199 urging a do pass stating this bill gives Montana law enforcement one more tool to utilize to ensure a defendant's appearance in court.

{Tape: 3; Side: B; Approx. Time Counter: 309 - 315}

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on January 23, 2003 at
8 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: Rep. Jeff Laszloffy, Vice Chairman (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Lisa Swanson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 18, 1/14/2003; HB 224,
1/14/2003; HJ1, 1/14/2003; HB256,
1/14/2003
Executive Action: HB 256; HB 18; HB 224; HB 66; HB
40; HJ 1; HB 199; HB 166

Discussion:

REP. NOENNIG stated that a motion to dismiss for failure to state a claim is really a disguised motion for an extension of time. He stated this bill is a good idea but that he is uncomfortable with the approach. REP. NEWMAN asked about the purpose of the extension of time amendment. REP. HARRIS responded that the purpose was to acknowledge that attorneys do have trouble responding within the 20 day response time, hence the 35-day answer time. He explained that the real point of HJR 1 is to discourage frivolous filings.

{Tape: 3; Side: B; Approx. Time Counter: 33 - 59}

Vote: Motion that HJR 1 DO PASS carried 16-1 by roll call vote with REP. SHOCKLEY voting no.

EXECUTIVE ACTION ON HB 214

Motion: REP. SHOCKLEY moved that HB 214 DO PASS.

Discussion: The Committee discussed the bill and concluded it needs some work. REP. SHOCKLEY stated the bill is to make the law conform with case law. He stated that a subcommittee would be a good idea. REP. CLARK commented that the proposed amendments are mucky and that this bill cannot be fixed during this executive action. REP. NOENNIG stated that he would like to replace "control" with "supervise" throughout the bill. REP. SHOCKLEY read from the Crisifulli v. Bass, the Montana Supreme Court case on parental duty to supervise their minor child.

REP. HARRIS moved that THE CHAIR TO APPOINT A SUBCOMMITTEE TO REVIEW AND REVISE HB 214. CHAIRMAN SHOCKLEY unilaterally appointed REPS. HARRIS, NOENNIG and SALES to form the subcommittee.

{Tape: 4; Side: A; Approx. Time Counter: 1 - 12}

EXECUTIVE ACTION ON HB 199

Motion: REP. HARRIS moved that HB 199 DO PASS.

Discussion:

REP. HARRIS stated that this bill would allow a detainee to post a driver's license in lieu of bail. REP. SHOCKLEY stated that no

police officer would, when detaining a drunk, take his driver's license instead of bail. **John MacMaster** explained some amendments which he distributed.

Motion/Vote: REP. HARRIS moved that HB 199 BE AMENDED. Motion carried unanimously by voice vote.

{Tape: 4; Side: A; Approx. Time Counter: 13 - 193}

Motion/Vote: REP. CLARK moved that HB 199 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 166

Motion: REP. FACEY moved that HB 166 DO PASS.

Discussion:

REP. SHOCKLEY stated that this bill was requested by the Law and Justice Interim Committee. REP. NOENNIG stated that prosecutors wanted veto power so they could avoid the situation where a defendant doesn't want the evidence to come in. He stated the problem with the prosecutorial veto is that any arraignment would require the prosecution to be there to have the option to veto or not.

Motion/Vote: REP. FACEY moved that HB 166 BE AMENDED. Motion failed unanimously by voice vote.

Vote: Motion HB 166 DO PASS carried unanimously by voice vote.

{Tape: 4; Side: A; Approx. Time Counter: 195 - 400}

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **VICE-CHAIRMAN DAN McGEE**, on March 11, 2003 at 9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Mangan (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

- Hearing & Date Posted: HB 66, 3/5/2003; HB 40,
3/5/2003; HB 155, 3/5/2003; HB
199, 3/5/2003; HB 166,
3/5/2003; HB 134, 3/5/2003____
Executive Action: HB 161, HB 134, HB 299

administrators and clerks and recorders. He inquired if there was any money available under the federal act which will be helping the counties to implement all the changes.

Ms. Doggett replied much of the federal funding will be used by the counties. In addition, there will be a five percent match from the Secretary of State's office.

SEN. WHEAT asked if it was fair to say most, if not all, the changes in HB 155 are mandated by the federal act.

Ms. Doggett responded HB 155 preceded the federal act. Every piece of the bill grew out of the concerns in Florida and the equal protection questions in Gore v. Bush. Not all of the provisions of the bill were mandated by the Help America Vote Act.

Closing by Sponsor:

Rep. Jent followed up on **SEN. WHEAT's** questions and stated there were two series of federal payments to the state. There is early out money to help improve elections, which will be administered by the General Services Administration, and the Chief Election Official must certify within six months of enactment that the state will use the money to improve elections. They were directed to establish a federal special revenue account so there would be a place to put that money when it became available.

HEARING ON HB 199

Sponsor: Rep. Christopher Harris, HD 30, Bozeman.

Proponents: Pam Bucy, Department of Justice
Ken Dove, Montana Police Protective Association
Mark Tymrak, Montana Association
of Chiefs of Police, City of Bozeman
Jim Smith, Montana Sheriffs' and Peace Officers'
Association, Montana County
Attorneys' Association

Opponents: None.

Opening Statement by Sponsor:

Rep. Harris explained the options for a patrol officer making an arrest. This bill will add another tool to the officer's options. With the driver's permission, the officer can take the

license, in lieu of bail, give the driver a temporary license, and notify the driver of where to appear in court. This is the practice in 30 other states, and this has been successful in securing the appearance of the driver in court.

Rep. Harris noted the \$25 administrative fee on page 3, line 13, is appropriate, but he feels the fee should not apply if the driver is found to be not guilty.

(Tape : 3; Side : B)

Proponents' Testimony:

Pam Bucy, representing the Department of Justice, explained the history of the bill and explained the non-pay or appear program has been around since 1995. Ms. Bucy submitted written testimony in favor of HB 199. EXHIBIT(jus51a05). Ms. Bucy feels this will not only be a tool for law enforcement, but for motorists as well. This will cut down substantially on law enforcement officers having to serve warrants.

Ken Dove, representing the Montana Police Protective Association, supports the bill and urged a do pass.

Mark Tymrak, President of the Montana Association of Chiefs of Police, and the Director of Public Safety for the City of Bozeman, supports HB 199.

Jim Smith, representing the Montana Sheriffs' and Peace Officers' Association and the Montana County Attorneys' Association, testified that both organizations support HB 199 because it gives law enforcement a good, workable tool that will motivate people to show up for their court appearance and pay their fines.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. McGEE asked Rep. Harris if he had discussed the language of his proposed amendment with Valencia Lane.

Rep. Harris responded he had discussed the amendment with Ms. Lane.

Closing by Sponsor:

Rep. Harris closed the hearing on HB 199.

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DUANE GRIMES**, on March 18, 2003 at
9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Mangan (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 17, HB 536, HB 390, HB 289,
3/12/2003
Executive Action: HB 199, HB 40

EXECUTIVE ACTION ON HB 199

Motion: SEN. BRENT CROMLEY moved that HB 199 BE CONCURRED IN.

Substitute Motion: SEN. CROMLEY moved that HB 199 BE AMENDED, HB019902.ajm, EXHIBIT(jus57a01).

Discussion:

CHAIRMAN DUANE GRIMES commented the amendment provided the fee would be paid to the court if the defendant pleaded guilty or was convicted.

Vote: The motion carried unanimously.

Substitute Motion: SEN. DAN MCGEE moved that HB 199 BE AMENDED, HB019902.avl, EXHIBIT(jus57a02).

Discussion:

Ms. Lane explained the amendment was a coordination instruction to coordinate with HB 215. House Bills 199 and 215 both amend 61-5-216 and it would have been difficult to codify the bills without a coordination instruction.

Vote: The motion carried unanimously.

Motion/Vote: SEN. JEFF MANGAN moved that HB 199 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HB 40

Motion/Vote: SEN. MCGEE moved that the Committee RECONSIDER ITS ACTION ON HB 40. The motion carried unanimously.

Motion: SEN. MCGEE moved that HB 40 BE CONCURRED IN.

Substitute Motion: SEN. MCGEE moved that HB 40 BE AMENDED, HB04001.avl, EXHIBIT(jus57a03).

Discussion:

SEN. MCGEE stated the amendment addresses the issue when the traffic stop is under Title 61. Unless emergency circumstances exist or the officer has reasonable cause to fear for his safety or for the public's safety, the officer shall inform the person of the reason for the stop.